STATE OF FLORIDA ON THE RELATION OF WAILES *v.* CROOM, COMPTROLLER OF THE STATE OF FLORIDA.

ERROR TO THE SUPREME COURT OF FLORIDA.

No. 646. Submitted December 2, 1912.—Decided December 16, 1912.

Where it appears, although by evidence outside the record, that before the writ of error to the state court was sued out, the public officer against whom a writ of mandamus is prayed had died, and his successor had qualified, the writ will be dismissed.

THE facts are stated in the opinion.

Mr. W. S. Jennings, *Mr. E. J. L'Engle* and *Mr. Park Trammell* for defendant in error, in support of motion to dismiss.

No appearance for plaintiff in error.

Memorandum opinion, by direction of the court, by MR. CHIEF JUSTICE WHITE.

This is an action in mandamus. The party proceeded against in the state court was A. C. Croom, sued in his official character as comptroller of the State of Florida. On January 16, 1912, the Supreme Court of Florida affirmed a judgment denying the writ. On April 11, 1912, this writ of error was sued out by the relator below, and Croom, comptroller, was named as defendant in error. Citation was served by delivering a copy to the Attorney General of the State of Florida. The attorneys who represented the defendant in the state courts, acting as friends of the court, have placed upon the files evidence establishing that A. C. Croom died on February 7, 1912, and that William V. Knott was thereafter appointed and duly qualified as comptroller of the State of Florida, and has been acting as such since February 17, 1912. Under the circumstances thus detailed it results that the writ of error was improvidently sued out, and it must therefore be dismissed.

Writ of error dismissed.